

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARTIN TARIN FRANCO, §
§
Plaintiff, §
§
v. § Civil Action No. H-14-0637
§
TEXAS BOARD OF PARDONS §
AND PAROLES, §
§
Defendant. §

ORDER OF DISMISSAL

Martin Tarin Franco, a state inmate proceeding *pro se* and seeking leave to proceed *in forma pauperis*, filed this motion for leave to file a section 1983 lawsuit for denial of parole and/or denial of due process and equal protection regarding denial of parole.

Plaintiff is a “three strikes” inmate who has filed numerous frivolous lawsuits while incarcerated, and is barred from proceeding *in forma pauperis* pursuant to section 1915(g). *See, e.g., Franco v. Williams*, C.A. No. H-02-CV-1171 (S.D. Tex. 2002); *Franco v. TDCJ*, C.A. No. 2:02-CV-168 (N.D. Tex. 2002); *Franco v. TDCJ*, C.A. No. H-05-CV-898 (S.D. Tex. 2005); *Franco v. Dretke*, C.A. No. H-06-CV-154 (S.D. Tex. 2006); *Franco v. The Clerk*, C.A. No. 1:10-CV-975 (W.D. Tex. 2011) (imposing \$250.00 sanction); *Franco v. Evans*, C.A. No. G-12-CV-150 (S.D. Tex. 2012); *Franco v. TDCJ*, C.A. No. G-12-CV-97 (S.D. Tex. 2012); *Franco v. Director or Authorized Person of the TDCJ*, C.A. No. 1:12-MC-935 (W.D. Tex. 2012) (imposing monetary sanctions).

To any extent this lawsuit could be construed as one brought pursuant to section 2254, plaintiff has filed numerous habeas petitions arising from the subject conviction and denials of parole, all which have been dismissed and for which he has been sanctioned. *See, e.g.*, *Franco v. Cockrell*, C.A. No. H-02-CV-2184 (S.D. Tex. 2002) (denying motion to proceed *in forma pauperis* and dismissing for “previous abuses of the federal judicial system”); *In re: Martin Franco, Jr.*, No. 04-51416 (5th Cir. 2005) (denying relief and warning petitioner as to successive petitions and sanctions); *Franco v. Bell*, C.A. No. H-10-CV-382 (S.D. Tex. 2010) (dismissing habeas petition as abuse of writ and imposing \$100.00 sanction); *Franco v. Unknown Case Managers*, C.A. No. 1:10-CV-320 (W.D. Tex. 2010) (imposing \$250.00 sanction); *In re: Martin Tarin Franco*, C.A. No. 1:09-MC-508 (W.D. Tex. 2010) (denying claim and barring petitioner from filing further actions in district courts without prior approval); *Franco v. Thaler*, C.A. No. 3:12-CV-161 (S.D. Tex. 2012) (imposing sanctions and barring future actions unless conditions satisfied). Plaintiff does not show that he has complied with his prior sanction orders, nor does he show that he has obtained authorization from the Fifth Circuit Court of Appeals to pursue a successive habeas petition. The Court declines to construe the instant lawsuit as one brought pursuant to section 2254.

Plaintiff is barred from filing a civil suit unless he is in imminent danger of physical injury. Plaintiff neither alleges nor shows that he was in imminent danger of physical injury at the time he filed this lawsuit, and he may not proceed *in forma pauperis* in this case.

This case is **DISMISSED WITHOUT PREJUDICE** under section 1915(g), subject to plaintiff's payment of the \$400.00 filing fee within fifteen days from date of this order. Any and all pending motions are **DENIED AS MOOT**.

Signed at Houston, Texas, on this 14th day of March, 2014.


KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE